

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ERCOLE A. MIRARCHI,

Plaintiff,

vs.

KATHY BOOCKVAR, et al.,

Defendants.

:
: CIVIL ACTION
:
:
: No. 21-cv-00126
:
:

ORDER

AND NOW, this _____ day of _____, 2021, upon consideration of the Motion of Defendant, Allegheny County Board of Elections, it is hereby ORDERED and DECREED that the motion is GRANTED and Defendant, Allegheny County Board of Elections, is hereby deemed to have joined in full the Motion to Dismiss filed by Centre County, Dauphin County and Lackawanna County Boards of Elections (ECF No. 33) and to have joined in part the Motion to Dismiss filed by Defendant Kathy Boockvar (ECF No. 49). Further, it is hereby ORDERED and DECREED that Defendants' Motions to Dismiss are GRANTED.

BY THE COURT:

U.S.D.J.

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ERCOLE A. MIRARCHI,

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**ALLEGHENY COUNTY BOARD OF ELECTIONS' MOTION TO JOIN IN
CENTRE, DAUPHIN, AND LACKAWANNA COUNTIES BOARDS OF ELECTIONS'
MOTION TO DISMISS (ECF No. 33) AND KATHY BOOCKVAR'S MOTION TO
DISMISS (ECF No. 49) PLAINTIFF'S AMENDED COMPLAINT (ECF No. 26)**

Defendant, Allegheny County Board of Elections ("Allegheny County"), by and through its undersigned counsel, hereby makes this motion to join in full the Motion to Dismiss (ECF No. 33) Plaintiffs' Amended Complaint (ECF No. 26) filed by Centre County, Dauphin County, and Lackawanna County Boards of Elections ("Centre County, et al.") and to join in part the Motion to Dismiss (ECF No. 49) filed by Defendant Kathy Boockvar, both of which are currently pending before the Court. In support of this motion, Allegheny County states as follows:

1. On April 26, 2021, Defendants Centre County, et al. filed a Motion to Dismiss (ECF Doc. 33) Plaintiffs' Amended Complaint (ECF Doc. 26).
2. The Motion to Dismiss sets forth the reasons that Plaintiff's claims must be dismissed pursuant to Fed.R.Civ.P. 12(b)(1), 12(b)(5), and 12(b)(6).

3. Allegheny County wishes to join in Centre County et al.'s Motion to Dismiss Plaintiff's Amended Complaint because the motion's arguments apply with equal force to Philadelphia County.

4. Allegheny County hereby adopts and incorporates by reference Centre County et al.'s Motion to Dismiss (ECF No. 33), Brief in Support (ECF No. 34), and Reply in support of the Motion (ECF No. 41).

5. On May 25, 2021, Defendant Kathy Boockvar filed a Motion to Dismiss (ECF No. 49) Plaintiff's Final Amended Complaint (ECF No. 26).

6. Defendant Boockvar's Motion to Dismiss sets forth additional reasons that Plaintiff's claims must be dismissed pursuant to Fed.R.Civ.P. 12(b)(1) and 12(b)(6).

7. Allegheny County wishes to join in Defendant Boockvar's Motion to Dismiss in part because the motion's arguments regarding (1) lack of standing, (2) mootness, (3) failure to state a claim under the Crimes Code, and (4) failure to state a RICO claim apply with equal force to Philadelphia County.

8. Allegheny County hereby adopts and incorporates by reference Defendant Boockvar's Motion to Dismiss (ECF No. 49) and Brief in Support (ECF No. 49-1) with regard to the arguments enumerated in Paragraph 7.

9. This motion advances judicial economy and streamlines the procedural posture of this matter because it avoids the need for Allegheny County to file a separate motion to dismiss that sets forth duplicative arguments of those already made by Centre County et al. and Defendant Boockvar.

WHEREFORE, Defendant Allegheny County respectfully requests its Motion to Join in Centre County et al.'s and Defendant Boockvar's Motions to Dismiss Plaintiffs' Complaint be granted.

Dated: June 9, 2021

Respectfully submitted,

/s/ Virginia Spencer Scott
Virginia Spencer Scott
Assistant County Solicitor
Pa I.D. #61647

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*Counsel for Defendant Allegheny
County Board of Elections*

CERTIFICATE OF SERVICE

I hereby certify that, on the date set forth below, I served a true and correct copy of the foregoing Motion To Join In Centre, Dauphin, And Lackawanna Counties Boards Of Elections' Motion To Dismiss (ECF No. 33) And Kathy Boockvar's Motion To Dismiss (ECF No. 49) Plaintiff's Amended Complaint (ECF No. 26) upon all counsel of record via ECF system and the foregoing document is available for viewing and/or downloading pursuant to the Court's ECF system and is served pursuant to FRCP Rule 5(b) and Local Civil Rule 5.1.2. The undersigned further certifies that a copy of the foregoing document was mailed via U.S. Mail to the person listed below:

Mr. Ercole A. Mirarchi
1625 W. Ritner Street
Philadelphia, PA 19145

/s/ Virginia Spencer Scott
Virginia Spencer Scott

Dated: June 9, 2021